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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,957	01/31/2005	Els Meesters	MI 6041 (US)	4581
34872	7590	11/16/2005	EXAMINER	
BASELL USA INC. INTELLECTUAL PROPERTY 912 APPLETON ROAD ELKTON, MD 21921			CHOI, LING SIU	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/522,957

Applicant(s)

MEESTERS ET AL.

Examiner

Ling-Siu Choi

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 12-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/13/2005.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Application is a 371 of PCT/EP03/08491, filed July 30, 2003, and claims the foreign priority of European Patent Application 02017287.0, filed **August 1, 2002**.

2. Claims 1-15 are now pending, wherein claims 1-7 are drawn to a propylene polymer; claims 8-11 are drawn to a process; claims 12-15 are drawn to films or multilayer laminated article.

### ***Claim Rejections - 35 USC § 112***

3. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

**The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**

4. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15, line 2, the recitation "a hard resin" causes indefiniteness because it is not well defined and the resulting claim does not clearly set forth the metes and bounds of the patent protection desired.

### ***Claim Rejections - 35 USC § 102***

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakai et al. (EP 0 916 701 A1).

propylene polymer having the following features:	
A	a content of isotactic pentad (mmmm) > 97%
B	Mw/Mn $\geq$ 6
C	Mz/Mw $\leq$ 5.5

(summary of claim 1)

Sakai et al. disclose a resin composition comprising a crystalline polypropylene having an isotactic pentad proportion (MMMM) of 98.7 % or 98.7; a molecular weight distribution expressed by weight average molecular weight /number average molecular weight (Mw/Mn) of 6 or 37.1; and a molecular weight distribution expressed by z-average molecular weight/weight average molecular weight (Mz/Mw) of 3.6 or 3.8 (Table 6, Comparative Examples 1, 3, and 4). Thus, the present claims are anticipated by the disclosure of Sakai et al.

***Allowable Subject Matter***

7. Claims 8-11 are allowable over the closest references: Sakai et al. (EP 0 916 701 A1) and Morini et al. (US 2003/0060581 A1).

Sakai et al. disclose a resin composition comprising a crystalline polypropylene having an isotactic pentad proportion (MMMM) of 98.7 % or 98.7; a molecular weight distribution expressed by weight average molecular weight /number average molecular weight ( $M_w/M_n$ ) of 6 or 37.1; and a molecular weight distribution expressed by z-average molecular weight/weight average molecular weight ( $M_z/M_w$ ) of 3.6 or 3.8 (Table 6, Comparative Examples 1, 3, and 4). However, Sakai et al. do not teach or fairly suggest a process to prepare a propylene polymer in the presence of a catalyst comprising a combination of non-extractable succinates and extractable electron donor.

Morini et al. disclose a process to prepare propylene polymer obtained in the presence of a catalyst comprising (A) a solid catalyst component, (B) an organo-metal compound, (C) an external electron donor, wherein the solid catalyst component comprises (a) Mg, Ti, and halogen and (b) at least two electron donors, wherein at least one of the electron donor is 15-50 mol % of esters of succinic acid which are not extracted for more than 20 and at least another electron donor which is extractable for more than 30 mol % (claims 1 and 13). Attention is directed to Table 2, wherein Example 3 demonstrates that a combination of rac diethyl 2,3-diisopropylsuccinate, meso diethyl 2,3-diisopropylsuccinate, and diisobutylphthalate is used and Example 4 shows that a combination of rac diisobutyl 2,3-diisopropylsuccinate, meso diisobutyl 2,3-

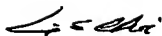
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diisopropylsuccinate, and diisobutylphalate is utilized. **Morini et al. further disclose the propylene polymer has pentad (mmmm)  $\leq 97$  (claim 21).** However, Morini et al. do not teach or fairly suggest a process to prepare a propylene polymer having a **pentad (mmmm)  $> 97$ .**

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reach on 571-272-1114.



**LING-SUI CHOI  
PRIMARY EXAMINER**

November 5, 2005